

**Introduced by Senator Leno**

February 19, 2010

---

An act to amend Section 48260 of the Education Code, and to add Section 270.1 to the Penal Code, relating to truancy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1317, as introduced, Leno. Truancy.

(1) Under existing law, a truant is a pupil who is subject to compulsory full-time education or to compulsory continuation education and who is absent from school without valid excuse 3 full days in one school year or tardy or absent for more than any 30-minute period during the schoolday without a valid excuse on 3 occasions in one school year, or any combination thereof. Existing law requires that a truant be reported to the attendance supervisor or to the superintendent of the school district and that, on a pupil's initial classification as a truant, the school district send a notice to the pupil's parent or guardian that includes certain information regarding the truancy and the parent's or guardian's obligations.

This bill would define as a chronic truant any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse for 10% or more of the schooldays in one school year.

(2) Existing law provides that, if a person is a parent of a minor child, he or she is guilty of a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment, if he or she willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for the child.

This bill would provide that a parent or guardian of an elementary school pupil subject to compulsory full-time education or to compulsory continuation education, whose child is a chronic truant as defined in the bill is also guilty of a misdemeanor punishable as described in the paragraph above. By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

The bill would authorize a superior court to establish a deferred entry of judgment program, meeting specified conditions, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants. The bill would authorize a deferred entry of judgment program established under the bill to refer defendant parents or guardians for services, including, but not necessarily limited to, case management, mental and physical health services, parenting classes and support, substance abuse treatment, and child care and housing. The bill would authorize the deferment of entry of judgment in these cases upon the defendant's compliance with terms and conditions set forth by the court.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 48260 of the Education Code is amended  
2     to read:  
3     48260. (a) Any pupil subject to compulsory full-time education  
4     or to compulsory continuation education who is absent from school  
5     without valid excuse three full days in one school year or tardy or  
6     absent for more than any 30-minute period during the schoolday  
7     without a valid excuse on three occasions in one school year, or  
8     any combination thereof, is a truant, and shall be reported to the  
9     attendance supervisor or to the superintendent of the school district.  
10    (b) *Any pupil subject to compulsory full-time education or to*  
11    *compulsory continuation education who is absent from school*  
12    *without valid excuse for 10 percent or more of the schooldays in*  
13    *one school year is a chronic truant. A parent or guardian of a*

1 *chronic truant who is an elementary school pupil may be the*  
2 *subject of prosecution under Section 270.1 of the Penal Code.*

3 ~~(b)~~

4 (c) Notwithstanding ~~subdivision~~ subdivisions (a) and (b), it is  
5 the intent of the Legislature that school districts shall not change  
6 the method of attendance accounting provided for in existing law,  
7 and shall not be required to employ period-by-period attendance  
8 accounting.

9 SEC. 2. Section 270.1 is added to the Penal Code, to read:

10 270.1. (a) A parent or guardian of an elementary school pupil  
11 subject to compulsory full-time education or compulsory  
12 continuation education, whose child is a chronic truant as defined  
13 in Section 48260 of the Education Code, is guilty of a misdemeanor  
14 punishable by a fine not exceeding two thousand dollars (\$2,000),  
15 or by imprisonment in the county jail not exceeding one year, or  
16 by both the fine and imprisonment. A parent or guardian guilty of  
17 a misdemeanor under this subdivision may participate in the  
18 deferred entry of judgment program defined in subdivision (b).

19 (b) A superior court may establish a deferred entry of judgment  
20 program that includes the components listed in paragraphs (1) to  
21 (6), inclusive, to adjudicate cases involving parents or guardians  
22 of elementary school pupils who are chronic truants as defined in  
23 Section 48260 of the Education Code:

24 (1) A dedicated court calendar.

25 (2) Leadership by a judge of the superior court in that county.

26 (3) Service referrals for parents or guardians, including, but not  
27 necessarily limited to, all of the following:

28 (A) Case management.

29 (B) Mental and physical health services.

30 (C) Parenting classes and support.

31 (D) Substance abuse treatment.

32 (E) Child care and housing.

33 (4) A clear statement that, in lieu of trial, the court may grant  
34 deferred entry of judgment with respect to the current crime or  
35 crimes charged if the defendant pleads guilty to each charge and  
36 waives time for the pronouncement of judgment and that, upon  
37 the defendant's compliance with the terms and conditions set forth  
38 by the court and agreed to by the defendant upon the entry of his  
39 or her plea, and upon the motion of the prosecuting attorney, the

1 court will dismiss the charge or charges against the defendant and  
2 Sections 851.90 and 1203.4 shall apply.

3 (5) A clear statement that failure to comply with any condition  
4 under the program may result in the prosecuting attorney or the  
5 court making a motion for entry of judgment, whereupon the court  
6 will render a finding of guilty to the charge or charges pled, enter  
7 judgment, and schedule a sentencing hearing as otherwise provided  
8 in this code.

9 (6) An explanation of criminal record retention and disposition  
10 resulting from participation in the deferred entry of judgment  
11 program and the defendant's rights relative to answering questions  
12 about his or her arrest and deferred entry of judgment following  
13 successful completion of the program.

14 SEC. 3. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.